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COOPERATIVE LEGAL STATUS

The United States Constitution leaves to the individual states responsibility for public education.

In South Dakota, the legislature is charged by the Constitution “to establish and maintain a general and uniform system of public school” which is open to all children and free from sectarian control.

Core Educational Cooperative was established for the purpose of maximizing the cooperative effort among school district to provide academic and educational services, cooperative purchasing and other services deemed appropriate by a majority vote of the governing board and in keeping with the laws of the State of South Dakota.

This cooperative constitutes an educational service provider under the name of Core Educational Cooperative, No. 11202 of Brule County, South Dakota.

State Reference

SD Constitution Article 22
SD Constitution Article 26 - 18
SD Constitution Article 9 - 1
SDCL 13-5-31

Description

Compact with the United States
Freedom of Religion
Uniform system of free public schools
Cooperative Educational Service Units

Federal Reference

US Constitution 10th Amendment

Description

Powers of the states and people

Policy Reference

BB

Description

School Board Legal Status

Written: 5/1/2018

Adopted:

Reviewed:

Revised:

NONDISCRIMINATION IN FEDERAL PROGRAMS

The CORE Educational Cooperative will not violate any of the provisions of applicable federal programs, statutes or regulations, including but not limited to Title IX, ESEA/Title I, Rehabilitation Act Section 504, Title II (Americans with Disabilities Act), NCLB and McKinney-Vento Act (homeless children). The CORE Educational Cooperative will not discriminate in any of its policies and programs on the basis of age, race, color, creed, national origin, ancestry, religion, sex or disability.

The Educational Cooperative will provide the following:

1. an adequate, reliable, and impartial investigation of complaints, including the opportunity for the complainant and alleged perpetrator to present witnesses and provide evidence;
2. evaluation of all relevant information and documentation relating to a complaint of discrimination;
3. specific, reasonably prompt time frames at each stage of the grievance process;
4. written notice to all parties within a specified timeframe of the outcome or disposition of the grievance at each stage of the process;
5. an opportunity to appeal the findings or remedy, or both;
6. an assurance that the Cooperative will take steps to prevent recurrence of any discrimination and correct discriminatory effects on others; and
7. language in the policies and grievance procedures indicating that any attempts to informally or voluntarily resolve the complaint or grievance should not delay the commencement of the Cooperative's investigation.

In compliance with applicable federal laws and regulations, the Board has appointed the Director as the Cooperative's Compliance Officer to coordinate program compliance with federal programs. The Director can be reached at:

CORE Educational Cooperative
612 S. Main Street
PO Box 518
Platte, SD 57369
Phone #: 605-337-3178

A complaint may also be filed with the United States Office for Civil Rights, U.S. Department of Education at: 1010 Walnut Street, Suite 320, Kansas City, Missouri 64106: Telephone: (816) 268-0550; Facsimile: (816)268-0599; Telecommunication Device for the Deaf: (877) 521.2172; E-mail: OCR.KansasCity@ed.gov.

COMPLAINT PROCEDURE

The CORE Educational Cooperative has adopted a specific procedure to ensure that parental/student/public complaints related to the provisions of applicable federal programs, statutes or regulations, including claims of retaliation are addressed. The Cooperative will not discriminate, in any of its policies and programs, on the basis of age, race, color, creed, national origin, ancestry, religion, sex or disability.

The purpose of this complaint procedure is to outline a procedure for addressing parental/student/public complaints about federal program compliance and/or discrimination. *Complaints against cooperative employees and complaints related to sexual harassment are addressed through other cooperative policies and not through this policy.*

For the purposes of this policy, a "complaint" is a perceived or alleged violation of federal programs, statutes or regulations (e.g., Title IX, ESEA/Title I, Rehabilitation Act Section 504, Title II (Americans with Disabilities Act), NCLB, McKinney-

Vento Act (homeless children), etc.) and/or discrimination in a policy and/or program on the basis of age, race, color, creed, national origin, ancestry, religion, sex or disability.

To protect the confidentiality of all concerned, it is imperative that any cooperative employee in receipt of a complaint treat the complaint as confidential and that the complaint not be reproduced in any form, nor disclosed or discussed with any person other than those identified as proper recipients of the complaint (i.e., supervisor, the director, or board).

When a federal program compliance complaint or discrimination/harassment complaint based on race, color, national origin, age or sex (excluding sexual harassment complaints) is brought directly to an individual board member or the entire Board, the board member or entire Board may listen to the person's complaint but shall take no action unless there has been compliance with this Policy. The person bringing the complaint will be directed to the procedure as set forth below. The following procedure is designed to ensure the proper balance in protecting the rights of the person(s) bringing the complaint and the rights of the employee against whom the complaint is made. It is only when the person having the complaint and the employee involved cannot resolve the problem, and the complaint cannot be resolved at the administrative level, will the Board and board members become involved.

Should it be determined that discrimination or harassment occurred based on race, color, national origin, age or sex, the Cooperative will take steps to prevent recurrence of any discrimination or harassment and to correct its discriminatory effects on others, if appropriate.

STEP 1: Initial Complaint

- A.** The person having the complaint related to federal program compliance or discrimination/harassment complaint based on race, color, national origin, age or sex (excluding sexual harassment complaints), the person must initiate the complaint procedure in one of the following ways:
- meet and discuss the concern with the Employee involved; OR
 - meet and discuss the concern with the Employee's Supervisor/Director.
1. If the Complainant met with the Employee and the complaint was not resolved, the Complainant must meet and discuss the complaint with the Supervisor/Director within ten (10) calendar days of the meeting with the Employee. The Supervisor/Director shall complete a Complaint Form, Exhibit AC-E (1). The Complainant shall sign and date the Complaint Form verifying the accuracy of its content.
 2. If the Complainant initiates the complaint by meeting with the Supervisor/Director, the Supervisor/Director shall complete a Complaint Form, Exhibit AC-E (1). The Complainant shall sign and date the Complaint Form verifying the accuracy of its contents.
- B.** Upon the Complaint Form being signed and dated by the Complainant, the complaint shall be given to the Compliance Officer (Supervisor/Director). The Supervisor/Director shall also give a copy of the complaint to the Employee and schedule an informal meeting with only the Complainant, Employee and Supervisor/Director present. At the meeting, the Supervisor/Director shall attempt to facilitate discussion between the Complainant and Employee by seeking clarification of the issue(s) and seeking a resolution to the complaint. However, attempts to informally or voluntarily resolve the complaint should not delay the commencement of the Cooperative's investigation. Should a resolution be obtained, the resolution shall be noted on the Complaint Form. Should a resolution not be obtained, the Complainant and/or the Employee may request a decision by the Supervisor/Director on the merits of the complaint by making the request on the Complaint Form.
- C.** If the Supervisor/Director is asked to make a decision on the merits of the complaint, the Supervisor/Director has the authority to investigate the complaint beyond the information received from the Complainant and Employee during the meeting with the Complainant, Employee and Director. During the Supervisor/Director's investigation the complainant and alleged perpetrator shall both have the opportunity, at separate times, to present witnesses and provide evidence to the Supervisor/Director. The Supervisor/Director shall evaluate all relevant information and documentation related to the complaint of discrimination or harassment and shall render a decision in writing within fourteen (14) calendar days of the request for a decision on the merits of the complaint. The time frame for rendering a decision by the Supervisor/Director may be extended by the Supervisor/Director for good cause and upon written notification to the Complainant and Employee. The notification shall identify the reason for the extension and the date on or before which the decision shall be rendered. The Complainant and the Employee shall receive written notification of the Supervisor/Director's determination/resolution.

- D. The Supervisor/Director's decision may be appealed by the Complainant or Employee to the Board within (10) ten calendar days of receipt of the Supervisor/Director's written decision pursuant to Step 2. If the Supervisor/Director does not render a written decision within the required time frame (14 days unless extended) the Complainant or Employee may appeal to the Board pursuant to Step 2.

Should the complaint be against a Director, the Board shall address the complaint through the procedure set forth in Step 1. An appeal by the Complainant pursuant to Step 1D may be filed with the Board pursuant to Step 3.

Should the complaint be against the Director the Complaint Form, Exhibit AC-E (1), shall be given to the Business Manager. The Business Manager shall give the Complaint Form to the Board President or Chairperson. At the Board meeting, the Board will designate a person who is not an Employee of the District to address the complaint through the procedure set forth in Step 1. An appeal by the Complainant pursuant to Step 1D may be filed with the Board pursuant to Step 2.

STEP 2: Complainant's Appeal to the Board

The following procedure shall be used to address an appeal of the Director's decision made in Step 2, or if the Director failed to render a decision in the required time frame:

- A. An appeal to the Board shall be in writing using Exhibit AC-E (3). The Complainant must attach the complaint, the Supervisor's written decision if a decision was rendered, the appeal to the Director, the response to the appeal if any, and the Director's decision if one was rendered.
- B. The appeal must be filed with the President/Chairperson of the Board or Business Manager within ten (10) calendar days of Complainant's receipt of the Director's written decision, or within ten (10) days of the deadline for the Director's written decision, whichever comes first.
- C. Upon receipt by the Board President/Chairperson of an appeal by the Complainant, a copy of the appeal shall be given to the Employee involved.
- D. Upon receipt of an appeal to the Board, the Board shall schedule a date, time and location for the appeal hearing.
- E. The following procedure shall be applicable at the appeal hearing before the Board:
 1. The Board shall appoint a board member or a person who is not an employee of the cooperative as the Hearing Officer.
 2. Within thirty (30) calendar days of an appeal being filed with the Board, the Board shall conduct a hearing in executive session.
 3. The Complainant, Employee and Director each have the right to be represented at the hearing.
 4. The Board shall make a verbatim record of the hearing by means of an electronic device or a court reporter. This record and any exhibits must be sealed and must remain with the Hearing Officer until the appeal process has been completed.
 5. The issue on appeal is whether the Director's decision should be upheld, reversed or modified by the Board; in the absence of a decision by the Director, the Board will make a decision on the merits of the complaint.
 6. All parties shall be given the opportunity to make an opening statement, with the Complainant being given the first opportunity, followed by the Employee and then the Director.
 7. The Complainant shall present his or her case first, and the Employee shall then present his or her case. Both parties shall have the opportunity to ask questions of the other's witnesses. The Hearing Officer and board members may ask questions of any witness.
 8. After the Complainant and the Employee have presented their respective cases, the Director shall then present the basis of his/her decision which led to the appeal, if a decision was rendered. The Complainant and Employee shall have the opportunity to ask the Director questions. The Hearing Officer and board members may also ask questions of the Director.

9. Unless a witness is a party to the appeal, witnesses may be present only when testifying unless the Hearing Officer rules otherwise. All witnesses must take an oath or affirmation administered by the Board President/ Chairperson, Hearing Officer or other person authorized by law to take oaths and affirmations.
10. The Hearing Officer shall admit all relevant evidence. The Hearing Officer may limit unproductive or repetitious evidence. The strict rules of evidence do not apply. *Moran v. Rapid City Area School Dist., 281 N.W.2d 595. 602 (S.D. 1979) ("This [school board hearing related to teacher contract nonrenewal] does not mandate nor necessitate the use of strict evidentiary rules.")*.
11. Both parties shall be given the opportunity to make a closing statement, with the Complainant having the first opportunity, followed by the Employee, and then the Director. The Complainant shall be given the opportunity for a brief rebuttal.
12. After the evidentiary hearing, the Board shall continue to meet in executive session for deliberations. No one other than the Hearing Officer may meet with the Board during deliberations. During deliberations, the Board may seek advice from an attorney who did not represent any of the parties in the hearing. Consultation with any other person during deliberation may occur only if a representative of the Complainant, Employee and Director are present. The Board may, in its sole discretion, continue the proceedings and make a final decision on the appeal at a later date.
13. Within twenty (20) calendar days of the hearing, the Board shall render its decision and issue its written Findings of Fact, Conclusions of Law and Decision. The time frame for rendering a decision may be extended by the Board President for good cause and upon written notification to the Complainant, Employee and Director. The notification shall identify the reason for the extension and the date on or before which the decision shall be rendered.
14. The decision of the Board must be based solely on the evidence presented at the hearing and must be formalized by a motion made in open meeting. The Board will reconvene in open session. The Board may uphold, reverse, or modify the Director's decision, or render a decision on the merits of the complaint in the absence of a Director's decision. Findings of Fact, Conclusions of Law and Decision, consistent with the Board motion, shall be in writing and approved by the Board. The Complainant, Employee, Supervisor, and Director will receive copies after the Findings of Fact, Conclusions of Law and Decision are approved by the Board.
15. If the Complainant is dissatisfied with the Board's decision, the Complainant may appeal the decision by filing an appeal to the circuit court pursuant to SDCL Ch. 13-46.

State Reference

SD Constitution Article 6
 SDCL 13-37
 SDCL 20-12
 SDCL 20-13

Description

Bill of Rights
 Special assistance and related services
 Municipal and county protection of human rights
 Human rights

Federal Reference

Public Law 94-142
 Title VI, Civil rights Act of 1964
 Title VII, Civil Rights Act of 1964
 USC Title 20 Chapter 38 §§1681-1688
 USC Title 29 Chapter 14
 USC Title 29 Chapter 16 §701
 USC Title 42 Chapter 76 §6101-6103

Description

Education for All Handicapped Children Act of 1975
 Nondiscrimination in Federally Assisted Programs
 Prohibits discrimination by covered employers on the basis of race, color, religion, sex or national origin
 Discrimination Based on Sex or Blindness
 Age Discrimination in Employment
 Vocational Rehabilitation
 Age discrimination in Federally Assisted Programs

Policy Reference

ACB
 FEFA

Description

NONDISCRIMINATION ON THE BASIS OF
 HANDICAP/DISABILITY
 CONTRACTOR'S FAIR EMPLOYMENT CLAUSE

GBA
JB

EQUAL OPPORTUNITY EMPLOYMENT
EQUAL EDUCATIONAL OPPORTUNITIES

Written: 12/4/2016
Adopted: 8/3/2017
Reviewed:
Revised: 5/1/2018

FILE: AC-E (1)

**NONDISCRIMINATION IN FEDERAL PROGRAMS
COMPLAINT REPORT FORM**

Date Form

Completed: _____

Form Completed by:

Person Filing the Complaint (Complainant):

Address/Phone # of Complainant:

Employee Involved:

Nature of Complaint: The person making the complaint shall with specificity identify the basis of the complaint (i.e., what, when, where, witnesses, and any other pertinent information).

_____ (use additional sheets if necessary).

FILE: AC-E (1)
PAGE 2 of 2

Was a meeting held between the person having the complaint and the employee?

Yes _____ No _____

If a meeting was held, when was it held, what happened at the meeting and what was the outcome of the meeting: _____

_____.

If a meeting was not held, explain why not: _____

_____.

Resolution requested/sought by complainant: _____

Date

Complainant

Date

School Official Completing the Report Form

Step 1 mutually agreeable resolution was reached:

Date

Complainant

Date Received

Business Manager

Adopted: 8/3/2017
Reviewed:
Revised:

FILE: ACAA

SEXUAL HARASSMENT

SECTION 1 – Policy Statement

The CORE Educational Cooperative is committed to an environment which is free from sexual harassment and conducive to all. Sexual harassment can inhibit a student's educational opportunities and an employee's work. Sexual harassment of cooperative employees, cooperative volunteers, parents, guests, students, visitors and vendors of the cooperative shall also not be tolerated and is strictly prohibited.

All cooperative employees, cooperative volunteers, parents, guests, students, visitors and vendors shall conduct themselves in a civil and responsible manner and in a manner consistent with cooperative policies. This policy prohibiting sexual harassment shall apply to all including students, cooperative employees, cooperative volunteers, parents, guests, visitors and vendors while on cooperative property, while attending or participating in cooperative activities, on cooperative-owned property or on non-cooperative property, while in any cooperative-owned or leased vehicle, or when in a private vehicle located on cooperative property.

The Cooperative shall investigate all reported instances involving sexual harassment. Attempts to informally or voluntarily resolve the complaint should not delay the commencement of the Cooperative's investigation. Unless a different person is designated by the Director to conduct the investigation, the administrator of the attendance center/site where the sexual harassment is alleged to have occurred is responsible for investigating the alleged sexual harassment. Allegations of sexual harassment may also be reported by the administration to other authorities, including but not limited to law enforcement.

The Cooperative will maintain confidentiality to the maximum extent possible under the circumstances. However, a person reporting sexual harassing conduct must understand that should the administrator who is investigating the report determine there is reasonable cause to suspect that sexual harassment did occur which could result in administrative discipline or a referral to the Board, the person alleged to have sexually harassed another person may have the right to know the identity of the person(s) making the report in order that he/ she may have an opportunity to defend himself/herself.

The Cooperative strictly prohibits retaliation against any person because he or she has made a report, testified, assisted, or participated in the investigation of a report of alleged sexual harassment. Retaliation includes, but is not limited to, any form of verbal or physical reprisal or adverse pressure. The person(s) alleged to have sexually harassed another person shall not directly or indirectly (such as through a third person) harass, pressure, or retaliate against any other person because of the complaint being reported. A violation of this provision may lead to separate disciplinary action based on the retaliation. Any person who believes he or she is being subjected to retaliation because of his or her involvement with a sexual harassment report should immediately contact the supervisor/Director.

Students who violate this policy shall be subject to appropriate disciplinary action, up to and including expulsion. Employees who violate this policy shall be subject to appropriate disciplinary action, up to and including termination of employment. School volunteers, parents, guests, visitors, and vendors who violate this policy may be prohibited from being on school property.

Complaints against cooperative employees and complaints related to bullying are addressed through other policies and not through this policy.

SECTION 2 – Sexual Harassment Defined

Sexual harassment is defined as sexually oriented words and actions which tend to annoy, alarm or be physically or verbally abusive toward another person and which serve no legitimate or valid purpose regardless of the intent of the person accused of the sexually harassing conduct. Not all harassment falls within the definition of sexual harassment (i.e., harassment that is of a sexual nature). Other laws, regulations and policies also prohibit inappropriate conduct and provide a means for addressing inappropriate conduct should it occur.

Sexual harassment is a specific type of harassment which is prohibited under this policy. Examples of sexual harassment include, but are not limited to:

1. Unwelcome sexual flirtations, advances or propositions;
2. Verbal comments, jokes, or abuse of a sexual nature;
3. Graphic verbal comments about an individual's body;
4. Sexually degrading words used to describe an individual;
5. Displaying pornographic material;
6. Physical contact or language of a sexually suggestive nature.

SECTION 3 – Sexual Harassment Reporting Procedure

Any individual who believes that he or she has been or is being subjected to sexual harassment or has reason to suspect another person has been or is being subjected to sexual harassment should immediately report it to a supervisor or director. The report may be made verbally or in writing. A report may be made anonymously, although disciplinary action may not be based solely on an anonymous report. If disciplinary action is being requested, the individual reporting the sexual harassment will be asked to either submit a signed written complaint or sign a completed Sexual Harassment Report Form, Exhibit ACAA-E (1), verifying the accuracy of its content. The written complaint or Sexual Harassment Report Form must include the following:

- the date the written complaint was filed or the Sexual Harassment Report Form was completed,
- the employee receiving the complaint (if applicable),
- the name of the person reporting the sexual harassment,
- the address/phone # of the person reporting the sexual harassment,
- the specific conduct or nature of the sexual harassment complaint including the person(s) alleged to have sexually harassed the complaining party or another person, the date(s) and location where the conduct occurred, witnesses, etc.,
- the date the employee completed the form (if applicable),
- the date and signature of the person reporting the sexual harassment.

If the signed written complaint was given to a supervisor or if the Sexual Harassment Report Form was completed by an employee or supervisor, the employee or supervisor shall forward the complaint or Sexual Harassment Report Form to the Director.

SECTION 4 – Procedure for Addressing Sexual Harassment Complaints

STEP 1: Director Investigation and Determination.

Should there be a report which alleges a cooperative employee, school volunteer, parent, guest, student, visitor or vendor has been subjected to sexual harassment, an investigation into the alleged sexual harassment will be initiated. The Cooperative's investigation may include, but is not limited to, such things as interviewing individuals with actual or possible knowledge regarding the conduct in question, identifying facts related to the conduct in question, identifying when and over what period of time the conduct is to have occurred, determining whether the conduct negatively affects the educational opportunities or employment condition of the victim, identifying prior history of a similar nature by any of the individuals involved, and attempting to obtain possible verification from other persons. The investigation by the supervisor/director responsible for the investigation shall be conducted promptly and completed in a reasonable time frame given the nature of the complaint. Unless the nature of the complaint and investigation dictate otherwise, the investigation should be completed and determination made by the supervisor/director on the merits of the complaint within thirty (30) calendar days of receipt of the complaint.

The person alleged to have sexually harassed another person will be notified that a complaint has been filed pursuant to this policy and that the complaint is being investigated. The name of the person making the complaint will not be disclosed to the person alleged to have violated this policy unless and until the investigation results in a determination that there is reasonable cause to suspect that sexual harassment did occur.

Upon reasonable suspicion by the supervisor/director responsible for the investigation that the allegation of sexual harassment may be true, the employee, student or third person accused of sexual harassment conduct shall be notified in writing that reasonable suspicion exists that the complaint may be valid, including a statement of the facts supporting the determination that reasonable suspicion exists, and the name of the alleged victim.

The person alleged to have sexually harassed another person in violation of this policy shall be afforded an opportunity to respond to the allegation of sexual harassment but is not required to submit a response.

Pending the outcome of the investigation the supervisor/director responsible for conducting the investigation may take such action consistent with cooperative policy and state law as deemed appropriate in order to facilitate the investigation and protect the rights of all persons involved. If there is reasonable suspicion to believe that a third person sexually harassed a student, employee or guest while at cooperative or at a cooperative activity on non-cooperative property in violation of this policy, the supervisor/director may prohibit that person from being on cooperative property or at cooperative activities.

At the conclusion of the investigation, the supervisor/director shall make a determination as to whether sexual harassment did occur or whether the facts are insufficient to determine that a determination that sexual harassment occurred. The complainant and the person alleged to have sexually harassed another person will receive written notice of the supervisor/director's determination. Should the supervisor/director conclude that sexual harassment did occur, the supervisor/director shall take such action as deemed appropriate, which may include imposing disciplinary consequences on the person found to have violated this policy prohibiting sexual harassment.

STEP 2: Appeal to the Board

If either party is not satisfied with the Director's decision, or if the Director does not render a written decision within fourteen (14) calendar days of the receipt of the appeal, that party may appeal to the Cooperative Board by filing with the Business Manager using Form ACAA-E (3) within ten (10) calendar days of receipt of the Director's written decision, or ten (10) days of the deadline for the Director's written decision, whichever comes first. The appeal shall be in writing and the appealing party must attach to the appeal the supervisor's written decision, the appeal to the Director, and the Director's written decision or notice of the Director's failure to render a written decision.

The following procedure shall be used by the Board to address an appeal of the Director's decision on the merits related to a sexual harassment complaint:

1. Upon receipt by the Board President/Chairperson of an appeal by the Complainant, a copy of the appeal shall be given to the person alleged to have violated the sexual harassment policy.
2. Upon receipt of an appeal, the Board shall at its next meeting schedule a date, time and location for the appeal hearing.
3. The following procedure shall be applicable at the appeal hearing before the Board:
 - A. The Board shall appoint a board member or a person who is not an employee of the cooperative as the hearing officer;
 - B. Within thirty (30) calendar days of an appeal being filed with the Board, the Board shall conduct a hearing in executive session;
 - C. The Complainant, person alleged to have violated the policy, and Director each have the right to be represented at the hearing;
 - D. The Board shall make a verbatim record of the hearing by means of an electronic or mechanical device or by court reporter. This record and any exhibits must be sealed and must remain with the hearing officer until the appeal process has been completed;
 - E. The issue on appeal is whether the Director's decision should be upheld, reversed or modified;
 - F. All parties shall be given the opportunity to make an opening statement, with the appealing party being given the first opportunity, followed by the other party, and then the Director;
 - G. The appealing party shall present his or her case first, and the other party shall then present his or her case. Both parties shall have the opportunity to ask questions of the other's witnesses. The hearing officer and board members may ask questions of any witness;
 - H. The Director shall present the basis of his/her decision which led to the appeal. Both parties shall have the opportunity to ask the Director questions. The hearing officer and board members may also ask questions of the Director;
 - I. Unless a witness is a party to the appeal, witnesses may be present only when testifying unless the hearing officer rules otherwise. All witnesses must take an oath or affirmation administered by the Board president, hearing officer or other person authorized by law to take oaths and affirmations;
 - J. The hearing officer shall admit all relevant evidence. The hearing officer may limit unproductive or repetitious evidence. The strict rules of evidence do not apply. (*Moran v. Rapid City Area School Dist.*, 281 N.W.2d 595. 602 (S.D. 1979)).
 - K. All parties shall be given the opportunity to make a closing statement, with the appealing party having the first opportunity, followed by the other party, and then the Director. The appealing party shall be given the opportunity for a brief rebuttal;
 - L. After the evidentiary hearing, the Board shall continue to meet in executive session for deliberations. No one other than the hearing officer may meet with the Board during deliberations. The Board may seek advice during deliberation from an attorney who has not represented any of the parties to the hearing. Consultation with any other person during deliberation may occur only if a representative of both parties and Director are present. The Board may, in its sole discretion, continue the proceedings and make a final decision on the appeal at a later date. Within twenty (20) calendar days of the hearing, the Board shall render its decision and issue its written Findings of Fact, Conclusions of Law and Decision. The time frame for rendering a decision may be extended by the Board President for good cause and upon written notification to both parties and the Director, and the notification shall identify the reason for the extension and the date on or before which the decision shall be rendered;
 - M. The decision of the School Board must be based solely on the evidence presented at the hearing and must be formalized by a motion made in open meeting. The Board will convene in open session and a

motion to uphold, reverse, or modify the Director's decision shall be made and voted upon. Findings of Fact, Conclusions of Law and Decision, consistent with the Board motion shall be in writing and approved by the Board. Both parties, the school administrator and the Superintendent will receive copies after the Findings of Fact, Conclusions of Law and Decision are approved by the Board.

- N. Following the Board hearing, should the Board determine there has been a violation of this policy prohibiting sexual harassment, Board action may include but is not limited to the following: (1) suspend or expel a student from any or all school programs, including but not limited to classes, extracurricular activities, or attendance at school activities; (2) pursuant to statute, reprimand, suspend without pay, or terminate the contract of an employee, or (3) prohibit a third person from being on school property or at school activities for such time as may be determined by the Board.
- O. If either party is dissatisfied with the Board's decision, that party may appeal the decision by filing an appeal pursuant to law.

Federal Reference	Description
USC Title 20 Chapter 38 §§1681-1688	Discrimination Based on Sex or Blindness
Policy Reference	Description
JFCD	BULLYING

Written: 12/4/2016
Adopted: 8/3/2017
Reviewed & Approved: 6/2/2021
Revised:

**SEXUAL HARASSMENT
COMPLAINT REPORT FORM**

Date Form Completed: _____

Form Completed by: _____

Person Reporting the Sexual Harassment: _____

Address/Phone # of the Person Reporting the Sexual Harassment:

Nature of Complaint: (With specificity, identify the person(s) alleged to have sexually harassed, the conduct which is the basis of the sexual harassment complaint, when/where the conduct occurred, the person(s) alleged to have sexually harassed, witnesses, and any other pertinent information):

_____ (use additional sheets if necessary).

Date

School Employee Completing the Sexual Harassment Report Form

Date

Person Reporting the Sexual Harassment

Adopted: 8/3/2017

Reviewed:

Revised:

NONDISCRIMINATION ON THE BASIS OF HANDICAP/DISABILITY

It will be the policy of the Cooperative to adhere to the concept of nondiscrimination on the basis of handicapping conditions. The Board will support section 504 of the Rehabilitation Act of 1973. In doing so the Board will:

1. Not discriminate against a qualified handicapped person in any aspect of school division employment solely on the basis of handicap.
2. Make facilities, programs and activities accessible, usable, and open to qualified handicapped persons.
3. Provide free appropriate education at elementary and secondary levels, including nonacademic and extracurricular services and activities, to qualified handicapped persons.
4. Not exclude any qualified handicapped person solely on the basis of handicap from participation in any preschool education or day care program or activity or any adult education or vocational program or activity.
5. Provide each qualified handicapped person with the same health, welfare, and social services as are provided other persons.

The Board holds the general view that:

1. Discrimination against qualified handicapped persons solely on the basis of handicap is unfair.
2. To the extent reasonably possible, qualified handicapped persons should be in the mainstream of life in a community.

Accordingly, employees of the Cooperative will comply with the above requirements of the law and any regulations approved by the Board or its administration for ensuring a policy of nondiscrimination on the sole basis of handicap. The Board designates the director or director's designee to act as the cooperative's compliance officer for employees and students.

No person in the District will, on the basis of handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activities.

Policy Reference	Description
AC	NONDISCRIMINATION IN FEDERAL PROGRAMS

Written: 12/4/2016
Date Adopted: 8/3/2017
Last Reviewed:
Last Revised:

CONTESTED HEARINGS

The Board may be required to assume a judicial role to ensure adherence to district policy. All contested matters will be heard in a fair and impartial manner, and the Board will resolve all disputes. All contested hearings shall adhere to the procedures outlined in this policy.

HEARING

- Hearings involving personnel and students are closed to the public.
- Requests for hearings to be conducted in open session will be considered by the Board.
- A verbatim record of the hearing will be made.
- Closed hearing records will be sealed pending a determination of the board.

CONDUCT OF THE HEARING

- The Board shall appoint a school board member or a person who is not an employee of the school district as the hearing officer.
- Each party may be represented by an attorney.
- Each party may make an opening statement.
- The complainant or petitioner shall present its case first.

WITNESSES

- All witnesses must take an oath or affirmation of truth.
- Witnesses may be present only when testifying.
- Each party may present, examine and cross-examine witnesses.
- The hearing officer may ask questions of witnesses and may allow other school board members to question witnesses.

EVIDENCE

- Each party may introduce evidence.
- All relevant evidence must be admitted.
- Unproductive or repetitious evidence may be limited by the hearing officer.
- Each party may raise objections. The basis for the objection must be stated.
- Each party may make a closing statement.

DELIBERATION

- After the hearing, the school board shall continue to meet in executive session for deliberation.
- No one other than the hearing officer may meet with the school board during deliberation.
- The school board may seek advice during deliberation from its legal counsel.
- Consultation with any other person during deliberation may occur only if representatives of the parties are present.

DECISION

- The decision of the Board must be based solely on the evidence presented at the hearing and must be effected by a motion made in open session.
- For closed hearings the motion must omit the names of the parties.
- The Board shall notify the parties in writing of its decision.

State Reference

State Reference	Description
ARSD 24:07	Student due process
SDCL 1-25-2	Executive or closed meetings
SDCL 1-26-18	Rights of parties at hearings on contested cases
SDCL 1-26-26	Ex parte consultations by agency personnel
SDCL 13-10	School district employees
SDCL 13-32	Supervision of students and conduct of school
SDCL 13-43	Employment of teachers

CONFLICT DISCLOSURE AND AUTHORIZATION

SDCL 3-23-6 states

"[n]o board member, fiscal agent, officer, or executive of a local service agency, school district, cooperative education service unit, education service agency, nonprofit education service agency, or jointly governed education service entity that receives money from or through the state may have an interest in a contract nor receive a direct benefit from a contract that the local service agency, school district, cooperative education service unit, education service agency, nonprofit education service agency, or jointly governed education service entity is a party to the contract except as provided in § 3-23-8."

This policy prohibits cooperative board members, the cooperative fiscal agent (business manager), cooperative officers and executives (cooperative administrators) from having an interest in a contract, or receiving a direct benefit from a contract, if the cooperative is a party to that contract or has a separate contract which is related to the contract of the cooperative board member, business manager or administrator, unless the cooperative board grants a waiver. Disclosure requirements apply to public contracts for labor or services to be rendered, the purchase of commodities, materials, supplies, or equipment of any kind, and any kind of contract related to facilities.

Disclosure is required by the cooperative board member, the business manager or an administrator in each of the following situations:

1. when the cooperative board member, business manager or cooperative administrator has an interest in a contract or receives a direct benefit from a contract.
2. if the spouse of the cooperative board member, business manager or cooperative administrator has an interest in a contract or receives a direct benefit from a contract.
3. if another person with whom the cooperative board member, business manager or cooperative administrator lives and commingles assets has an interest in a contract or receives a direct benefit from a contract.

A cooperative board member, business manager or cooperative administrator derives a direct benefit from a contract, or their spouse or other person with whom assets are commingled derives a direct benefit from a contract:

1. if the person has more than a five percent ownership or other interest in an entity that is a party to the contract;
2. if the person derives income, compensation, or commission directly from the contract or from the entity that is a party to the contract;
3. if the person acquires property under the contract; or
4. if the person serves on the board of directors of an entity that derives income directly from the contract or acquires property under the contract.

A person does not derive a direct benefit from a contract based solely on the value associated with the person's investments or holdings, or the investments or holdings of other persons the state officer or employee lives with and commingles assets.

If in doubt whether an actual conflict exists, this policy also requires disclosure of possible or potential conflicts.

If other specific conflict of interest laws or administrative regulations relating to cooperative board members, cooperative administrators and the cooperative business manager apply in addition to SDCL Ch. 3-23 and this policy, the more restrictive conflict of interest law shall apply.

Any cooperative board member, cooperative administrator or cooperative business manager who knowingly violates SDCL Ch. 3-23 commits a criminal offense (Class 1 misdemeanor). Any cooperative board member who knowingly violates the provisions of this policy is subject to being removed as a cooperative board member. Any cooperative administrator or business manager who knowingly violates the provisions of this policy is subject to his or her employment relationship with the cooperative being terminated. Unless the cooperative board has granted a waiver, the contract in which the cooperative board member, cooperative administrator or cooperative business manager has an interest or receives a direct benefit is voidable by the cooperative board and any benefit received by the cooperative board member, cooperative administrator or cooperative business manager is subject to forfeiture.

A waiver may be granted by the cooperative board to authorize a cooperative board member, cooperative administrator or cooperative business manager to receive a direct benefit from the cooperative's contract with a person or entity (public, private, for-profit, non-profit) if the following conditions are met:

1. the cooperative board member, cooperative administrator or cooperative business manager provides a full written disclosure to the cooperative board;
2. the cooperative board reviews the essential terms of the contract or transaction and the cooperative board member's, cooperative administrator's or cooperative business manager's role in the contract or transaction;
3. the cooperative board determines that the transaction and terms of the contract are fair and reasonable and not contrary to the public interest; and
4. the authorization of the cooperative board is in writing and filed with the Auditor-General.

The public records laws (SDCL Ch. 1-27) apply to all requests for a waiver.

APPLYING FOR A WAIVER:

1. If the potential for a conflict exists, the cooperative board member, cooperative administrator or cooperative business manager having the potential conflict of interest must submit the Request for Cooperative Board Waiver form, Exhibit AH-E(1).
2. The request should be submitted to the cooperative board before entering into a conflicted contract or transaction.
3. Disclosures and requests for a waiver should be submitted to the President/Chairperson of the Cooperative Board, the Director or the Business Manager, at least 5 calendar days before the scheduled meeting in order to be included in the posted agenda and acted upon at the next scheduled meeting. Disclosures and requests received by the President/ Chairperson of the Cooperative Board, the Director or the Business Manager less than 5 calendar days before the scheduled meeting may be deferred until the following cooperative board meeting.
4. The person applying for the waiver must describe the relationship to the contract in question and why the applicant believes the contract may be subject to disclosure, including how person, his/her spouse or anyone with whom he/she lives and commingles assets might benefit from the contract. Examples of persons other than a spouse might include a girlfriend, boyfriend, roommate, or an adult child.
5. The person requesting the waiver identify and describe the essential terms of the contract:
 - (a) all parties to the contract,
 - (b) the person's role in the contract or transaction,
 - (c) the purpose(s)/objective(s) of the contract,
 - (d) the consideration or benefit conferred or agreed to be conferred upon each party,
 - (e) the length of time of the contract,
 - (f) any other relevant information.
6. The person requesting the waiver should briefly describe why he/she believes a waiver would not be contrary to the public interest (i.e., the contract was part of a competitive bidding process, there are other school district people involved in the decision-making process to enter into the contract, or the terms of the contract are consistent with other, similar contracts).
7. The Cooperative's Attorney may answer general questions about the applicability of SDCL Ch. 3-23 or about the other laws that address conflict of interest. However, the cooperative attorney represents the cooperative and the cooperative board, and not cooperative board members, cooperative administrators, or the cooperative business manager, in their individual capacities. Cooperative board members, cooperative administrators, and the cooperative business manager should contact a private attorney if they have questions as to how SDCL Ch. 3-23 and this policy apply to their individual interests and contracts.

BOARD ACTION ON A REQUEST FOR WAIVER:

1. Cooperative Boards will have a regular agenda item at the beginning of the cooperative board meeting agenda when the cooperative board will address disclosures and requests for a waiver.
2. Disclosures and requests for a waiver submitted to the President/Chairperson of the Cooperative Board, the Director or the Business Manager, at least 5 calendar days before the scheduled meeting will be included in the posted agenda and acted upon at the next scheduled meeting.
3. Disclosures and requests received by the President/ Chairperson of the Cooperative Board, the Director or the Business Manager less than 5 calendar days before the scheduled meeting may be deferred until the following school board meeting.

4. If possible, waiver requests will be acted upon at the meeting in which the request is brought forth. If the cooperative board believes the request form information is incomplete, the cooperative board must ask the person requesting the waiver for additional information. The Board will avoid using an incomplete request form as the basis for extending the time for review and decision on the waiver request; the cooperative board may receive the needed information from the requesting party at the cooperative board meeting when the waiver request is being addressed.
5. When considering a waiver request, the cooperative board should be able to determine the requesting party's relationship to the contract, the requesting party's relationship to the outside contracting party, whether the contract terms are reasonable and in the public interest, and any other factors the cooperative board believes will help establish the relevant facts and circumstances surrounding the contract(s) and the request for waiver.
6. At the meeting when the waiver request will be considered by the board, the cooperative board member, cooperative administrator or cooperative business manager submitting the waiver request must be present and prepared to answer questions from the school board about the request for a waiver.
7. The request and the Board's determination must be included in the minutes of the meeting.
8. If the authorization is granted, a written authorization [Exhibit AH-E(2)] shall be prepared following the meeting and signed by the President/Chair of the Cooperative Board or other authorized Cooperative Board Member, and filed with the Auditor General.

Notes: Boards need to consult with their cooperative attorney before the cooperative board goes into executive session to discuss a disclosure and waiver request. Only upon the recommendation of the cooperative attorney should the Cooperative Board discuss the disclosure and request in executive session.

State Reference	Description
SDCL 1-27	Public records and files
SDCL 3-23-6	Prohibition against contract conflict of interest
SDCL 3-23-7	Circumstances resulting in contract conflict of interest
SDCL 3-23-8	Exceptions to contract conflict of interest
SDCL 3-23-9	Consequences for violation of contract conflict of interest law
Policy Reference	Description
BBF	BOARD MEMBER CODE OF ETHICS
BBFA	BOARD MEMBER CONFLICT OF INTEREST
GBC	STAFF ETHICS
GBCA	STAFF CONFLICT OF INTEREST

Written: 12/4/2016
 Adopted: 8/3/2017

CONFLICT DISCLOSURE AND AUTHORIZATION - REQUEST FOR COOPERATIVE BOARD WAIVER

Date: _____

Name of the cooperative board member, cooperative administrator or cooperative business manager requesting the waiver: _____

Brief explanation of the potential conflict of interest:

Brief explanation of the essential terms of the contract(s) or transaction(s) from which a potential conflict of interest may arise, including:

- (1) all parties to the contract
- (2) the person's role in the contract or transaction
- (3) the purpose(s)/objective(s) of the contract
- (4) the consideration or benefit conferred or agreed to be conferred upon each party
- (5) the length of time of the contract
- (6) any other relevant information

Brief explanation of how or why the transaction or the terms of the contract are fair, reasonable, and not contrary to the public interest such that a waiver should be granted.

Signature of Person Requesting Waiver: _____

CONFLICT DISCLOSURE AND AUTHORIZATION - WAIVER AUTHORIZATION PURSUANT TO SDCL3-23-3

A written request for waiver of conflict, dated _____,
was received from _____.

The request was acted upon by the members of the CORE Educational Cooperative
Board during a meeting held on _____.

_____The request for waiver was denied because the terms of the contract were not
considered fair and reasonable, or contrary to the public interest.

_____The request for waiver was authorized because the terms of the contract are fair and
reasonable, and not contrary to the public interest such that a waiver should be
granted.

_____The request for waiver was authorized because the terms of the contract are fair and
reasonable, and not contrary to the public interest such that a waiver should be
granted, subject to the following conditions:

Signature of CORE Educational Cooperative Board President /Chairperson or Authorized Member

Printed Name: _____

Date _____

Date mailed to Auditor General _____

Written: 12/4/2016
Adopted: 8/3/2017